

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition for approval of 2025
depreciation study and for approval to amortize
reserve imbalance, by Florida City Gas.

DOCKET NO. 20250035-GU

DATED: NOVEMBER 14, 2025

STAFF'S MOTION TO ACCEPT LATE FILED TESTIMONY AND
TO AMEND ORDER ESTABLISHING PROCEDURE

The staff of the Florida Public Service Commission, by and through its undersigned counsel and pursuant to Rules 28-106.204, Florida Administrative Code, moves the Florida Public Service Commission to enter an order accepting the late filed testimony of Edwin A. Kunkler and amending the Order Establishing Procedure (OEP) issued in this docket on October 2, 2025. In support of this Motion, Staff states as follows.

1. Pursuant to the OEP issued October 2, 2025, the deadline for Staff's testimony and exhibits to be submitted was November 12, 2025.

2. Also pursuant to the OEP, filings pertaining to this docket must comply with Rule 28-106.104, Florida Administrative Code, which states that "any document received after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day."

3. Section IV of the OEP also states "[f]ailure of a party to timely prefile exhibits and testimony from any witness in accordance with the foregoing requirements may bar admission of such exhibits and testimony."

4. Due to unforeseen circumstances, staff was unable to file the Testimony of Edwin A. Kunkler until approximately 5:16 p.m. on November 12, 2025, roughly 16 minutes after the 5:00 p.m. deadline set forth in the OEP. The parties were also served the testimony and exhibits electronically at this same time.

5. While the deadline in the OEP is clear, the language quoted above also clearly allows for the acceptance of late filed testimony.

6. Due to the short time frame after the deadline in which the parties were served the testimony and exhibits, there is no or very little prejudice to any of the parties involved in accepting the testimony of Mr. Kunkler late.

7. Additionally, Florida public policy and administrative proceedings in general favor resolving cases on the merits.¹

8. Upon conferral with Counsel for Florida City Gas (FCG), it was determined that FCG would not object to the testimony of Mr. Kunkler being accepted if FCG was in turn allowed an additional day to file its Rebuttal Testimony. Staff has no objection to this additional time.

9. Accordingly, Counsel for Staff respectfully request that the testimony of Edwin A. Kunkler be accepted and that the OEP be amended to reflect both the movement of the deadline for the filing of staff's testimony to November 13, 2025, and the movement of the deadline for the filing of FCG's rebuttal testimony to November 20, 2025.

10. Counsel for staff has conferred with counsels for Florida City Gas and the Office of Public Counsel, neither of which object to the relief sought in this motion.

¹ See *J.J.K. Int'l, Inc. v. Shivbaran*, 985 So. 2d 66, 69 (Fla 4th DCA 2008).

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RESPECTFULLY SUBMITTED, this 14th day of November, 2025:

/s/Timothy Sparks

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the STAFF'S MOTION TO ACCEPT LATE FILED
TESTIMONY AND AMEND OEP has been filed with the Office of Commission Clerk and a
copy has been furnished to the following by electronic mail, this 14th day of November, 2025:

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